

**Before the  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001**

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STATUTORY REVIEW OF THE SYSTEM  
FOR REGULATING RATES AND CLASSES  
FOR MARKET DOMINANT PRODUCTS

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Docket No. RM2017-3

**COMMENTS OF THE NATIONAL POSTAL MAIL HANDLERS UNION ON  
REVISED NOTICE OF PROPOSED RULEMAKING**

The National Postal Mail Handlers Union (“NPMHU”) submits these comments to address the Commission’s December 5, 2019 Revised Notice of Proposed Rulemaking on the Statutory Review of the System for Regulating Rates and Classes for Market Dominant Products, PRC Order No. 5337 (“Revised NPR”).

The NPMHU commends the Commission for its extraordinary effort to implement this statutory review process, but for the reasons set forth below, the NPMHU also urges the Commission to amend certain portions of its proposed rules to provide the Postal Service with additional supplemental rate authority alongside the proposed density and retirement-obligation rate authority; to allow the Postal Service to bank its supplemental rate authorities, if unused, for delayed implementation in later years; and to return to the Commission’s original proposal for independent rate authority aimed at service goals. In submitting this comment, the NPMHU incorporates its March 1, 2018 comments responding to the original NPR, PRC Order No. 4258.

1. The NPMHU serves as the exclusive bargaining representative for 45,000 mail handlers employed by the Postal Service. These employees and the NPMHU will be directly affected by the Commission's statutory review of the USPS ratemaking system, both as employees of the Postal Service (or the representative of those employees) and as users of the American postal system.

2. As a threshold matter, the NPMHU reasserts its belief that the Commission's analysis regarding its statutory authority to modify the current ratemaking system is clearly correct. *See* Revised NPR at 32-57. For the reasons set forth in the Revised NPR, the Commission certainly is authorized under the statute and the Constitution to retain the existing price cap; to modify the existing cap as necessary to meet the objectives set forth in the Postal Accountability and Enhancement Act of 2006 ("PAEA"), 39 U.S.C. § 3622; or to adopt a different system altogether. *Id.*

3. The NPMHU continues to support the Commission's recognition that a grant of additional pricing authority to the Postal Service is necessary and appropriate. Moreover, the Commission appropriately recognizes two significant contributors to future financial difficulties of the Postal Service—namely, fluctuations in mail density and the retirement costs imposed by Congress in the PAEA. Each of these challenges will likely contribute to a higher cost-per-piece for the Postal Service, which supplemental rate authority will help to address.

4. At the same time, however, the NPMHU believes that the Revised

NPR fails to provide the Postal Service with the flexibility that is both sufficient and necessary to address the ongoing issues that have led to cost shortfalls, such as the prior declines in mail volume caused by new alternatives to postal mail. These existing challenges will not be addressed simply by forward-looking density or retirement-cost authorities, and the Postal Service will therefore be inhibited from reaching financial stability if the Commission does not provide additional rate authority. Of major importance, as the Postal Service noted in its March 1, 2018 comment regarding the original NPR, the Commission has underestimated the Postal Service's current financial shortfalls. After taking out the deferred revenue obtained via the exigent surcharge and appropriately considering accounting adjustments for postage in the hands of the public, the Postal Service lost an average of \$6.0 billion per year during Fiscal Years 2013 through 2017. USPS March 1, 2018 Comment at 61-63. The density and retirement-cost authorities would not address this continuing loss.

5. The NPMHU also urges the Commission to reconsider its revisions to the performance-based rate authority between the original Notice of Proposed Rulemaking and the Revised NPR. The original NPR would have allocated a .25 percent rate authority based on the Postal Service's service standards and a separate .75 percent rate authority based on Total Factor Productivity ("TFP"). In its earlier comments, the NPMHU encouraged the Commission to balance those percentages so that .5 percent of rate authority would be granted for each performance metric. This would acknowledge the

importance of high-quality service, both for its own sake and to maintain a customer base that will support the Postal Service's long-term financial sustainability. Instead, the Revised NPR would require the Postal Service to achieve both the service and TFP goals for it to get any performance-based rate authority at all. This approach holds service standards hostage to "efficiency" measurements that threaten to undermine the Postal Service's efforts to make long-term capital investments, as detailed in the NPMHU's prior comment. Further, as the Commission's own report on Postal Quality and Price Regulation noted, no other postal system has a performance-based rate authority that combines both "efficiency" and quality measurements. See Henrik Ballebye Olkholm, et al, Copenhagen Economics, Postal Quality and Price Regulation 27 (March 29, 2017). There is no reason for the American postal system to be the first to take this path, which risks undermining service quality. In finalizing the rule, the Commission should, at a minimum, return to its original proposal on the allocation of performance-based authority.

6. The NPMHU also encourages the Commission to ensure that all new rate authorities granted under this rulemaking are "bankable," so that unused rate authority may be used in a subsequent year, similar to the treatment of the unused rate authority for the current CPI cap under 39 U.S.C. § 3622(d)(2)(C). Bankable rate authority allows the Postal Service to effectively respond to market constraints that would limit postal consumers' willingness to absorb a rate increase on a year-by-year basis. Otherwise, the

Postal Service will face an annual Hobson's choice—whether to push away marginal postal customers or make the rate increases necessary to address changes in the cost of delivering the mail. By forcing such a choice, the Commission would unnecessarily risk the Postal Service's long-term financial stability. Instead, the Commission should allow the Postal Service the flexibility to use the density, retirement-cost, or performance-based rate authority in a subsequent year.

7. For the foregoing reasons, the NPMHU respectfully requests that the Commission further amend its proposed regulations in a manner consistent with these comments and the NPMHU's prior, March 1, 2018 comments, including supplemental rate authority to address historic cost shortfalls; performance-based rate authority tied only to service-quality standards; and bankable rate authorities.

Respectfully submitted,

/s/

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